

1 Leon Greenberg, NSB 8094
Dana Sniegocki, NSB 11715
2 Leon Greenberg Professional Corporation
2965 South Jones Boulevard, Ste. E-4
3 Las Vegas, Nevada 89146
Tel (702)383-6085
4 Fax (702)385-1827

5 Christian Gabroy, NSB 8805
Gabroy Law Offices
6 The District at Green Valley Ranch
170 S. Green Valley Pkwy, Ste 280
7 Henderson, NV 89012
Tel (702)259-7777
8 Fax (702)259-7704

9 Attorneys for Plaintiffs

10
11
12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**
14

15 GREG LANDERS, Individually and) Case No.:
on behalf of a class of all)
16 similarly situated persons,)
17 Plaintiff,) **COMPLAINT**
18 v.)
19 QUALITY COMMUNICATIONS, INC.,)
BRADY E. WELLS, and ROBERT J.)
20 HUBER,)
21 Defendants.)
22

23
24
25 The Plaintiff, GREG LANDERS, by his attorneys, Leon
26 Greenberg Professional Corporation and Gabroy Law Offices, as and
27 for a Complaint against the defendants, states and alleges, as
28 follows:

JURISDICTION, PARTIES AND PRELIMINARY STATEMENT

1. This Court has original federal question jurisdiction over the claims presented in the First Claim for Relief herein pursuant to the Act of June 25, 1938, ch 676, 52 Stat 1069, 29 USC Sections 201-219, known as the Fair Labor Standards Act ("the FLSA" or "the Act"), a law of the United States regulating interstate commerce, and specifically under the provisions of Section 16 of said act, as amended (29 U.S.C. § 216(b)).

2. The plaintiff, GREG LANDERS (the "plaintiff" or "named plaintiff") is a resident of Clark County and the State of Nevada and a former employee of the defendants.

3. The defendant, QUALITY COMMUNICATIONS, INC. (the "corporate defendant"), is a corporation formed and existing pursuant to the Laws of the State of Nevada or another jurisdiction and has its principal place of business in Clark County Nevada or its main place of business in the State of Nevada in Clark County Nevada.

4. The defendants, BRADY E. WELLS and ROBERT J. HUBER, (the "individual defendants") are the owners, manager, officers, directors and/or controlling agents of the corporate defendant and, as detailed herein, have acted as "employers or agents of an employer" of the plaintiff and the putative FLSA collective action members within the meaning of the FLSA and are as a result fully liable for all claims made herein.

5. The defendants engage in a for-profit business which has gross revenue in excess of \$500,000 per annum and are engaged in the production of goods for interstate commerce and/or the use

1 and/or handling of goods which have moved in interstate commerce
2 as such terms are defined in the FLSA and are employers subject
3 to the jurisdiction of the FLSA.

4 6. The plaintiff has been an employee of the defendants
5 jointly for the purposes of the FLSA during the time period
6 pertinent to this complaint, to wit, during a portion of the
7 three years immediately preceding the initiation of this action.
8 The plaintiff has performed labor and services in various
9 occupations that are subject to the aforesaid provisions of the
10 FLSA. These occupations include, but are not limited to, labor
11 in defendants' cable television, phone, and internet service
12 installation business.

13 7. That all of the various violations of law that are
14 alleged herein were committed intentionally and/or willfully by
15 the defendants.

16 COLLECTIVE ACTION ALLEGATIONS

17 8. Pursuant to Section 16(b) of the FLSA, the individual
18 plaintiff brings this Complaint as a collective action (also
19 commonly referred to as an "opt-in" class), on behalf of himself
20 and all persons similarly situated, to wit, a putative class of
21 cable telephone, television, and internet service installation
22 technicians employed by the defendants in the State of Nevada
23 and/or the United States within three (3) years of the filing of
24 this Complaint until entry of judgment after trial.

25 9. Plaintiff is informed and believes, and based thereon
26 alleges that there are at least 50 putative collective action
27 members. The actual number of collective action members is
28 readily ascertainable by a review of the defendants' records

1 through appropriate discovery.

2 10. The number of class members is so numerous that joinder
3 is impracticable and would involve many individual litigations.
4 Disposition of these claims in a collective action rather than in
5 individual actions will benefit the parties and the Court.

6 11. There is a well-defined community of interest in the
7 questions of law and fact affecting the class as a whole.

8 12. Proof of a common or single set of facts will establish
9 the right of each member of the class to recover. These common
10 questions of law and fact predominate over questions that affect
11 only individual class members. The individual plaintiff's claims
12 are typical of those of the class.

13 13. A collective action is superior to other available
14 methods for the fair and efficient adjudication of the
15 controversy. Due to the typicality of the class members' claims,
16 the interests of judicial economy will be best served by
17 adjudication of this lawsuit as a class action. This type of
18 case is uniquely well-suited for class or collective treatment
19 since the employers' practices were uniform and the burden is on
20 the employer to establish that its method for compensating the
21 class members complies with the requirements of the FLSA.

22 14. The individual plaintiff will fairly and adequately
23 represent the interests of the class and has no interests that
24 conflict with or are antagonistic to the interests of the class.

25 15. The individual plaintiff and counsel are aware of their
26 fiduciary responsibilities to the class members and are
27 determined to diligently discharge those duties by vigorously
28 seeking the maximum possible recovery for the class.

1 16. There is no plain, speedy, or adequate remedy other
2 than by maintenance of this class action. The prosecution of
3 individual remedies by members of the class will tend to
4 establish inconsistent standards of conduct for the defendants
5 and result in the impairment of class members' rights and the
6 disposition of their interests through actions to which they were
7 not parties.

8 FACTUAL ALLEGATIONS UNDERLYING THE CLAIMS

9 17. The corporate defendant is in the business of providing
10 electrical contracting services to the cable television industry,
11 e.g., installing, constructing, maintaining, modifying, various
12 electrical installations, including, if they are so engaged to do
13 so, those involving cable television service, computer internet
14 (DSL) service and telephone service, the corporate defendant also
15 employing the plaintiff and the putative FLSA collective action
16 members in connection with its providing of such services to its
17 customers, such persons employed by the defendants typically
18 being called "cable service installers" or "cable service
19 technicians."

20 18. The individual defendants are directors, owners,
21 officers and active managers of the corporate defendant and have
22 complete control over the corporate defendant and have the
23 authority and duty to make the corporate defendant's policies
24 comply with the FLSA and have acted as employers for the purposes
25 of the FLSA violations alleged herein in that such individual
26 defendants have acted as agents of an employer knowing of the
27 policies of the corporate defendant alleged herein that have
28 violated the FLSA and/or by ordering, creating, implementing,

1 enforcing, and/or otherwise allowing and directing such policies
2 continue despite having the authority to prevent such policies
3 which violated the FLSA from taking place and despite actual or
4 constructive knowledge that such policies were violating the FLSA
5 and/or by failing to act to prevent or remedy such policies
6 violating the FLSA in a wanton and willful disregard of the
7 FLSA's requirements which the individual defendants were charged
8 with knowing and complying with as a matter of law.

9 19. The compensation system used by the defendants for the
10 plaintiff and those similarly situated was a *de facto* "piecework
11 no overtime" system, meaning such employees were being paid a
12 certain amount for each "piece" of work they performed pursuant
13 to a schedule, the plaintiffs not being paid time and one-half
14 their "regular hourly rate" for work in excess of 40 hours a week
15 as required by the FLSA and Nevada law based upon the hours they
16 actually worked each week and the total basic "piece rate" they
17 were paid, such *de facto* compensation system existing even though
18 defendants would produce certain false and misleading payroll
19 records indicating that either proper overtime or some measure of
20 overtime was being paid to the plaintiff and those similarly
21 situated when, in fact, no such overtime was being paid
22 whatsoever, or, alternatively, defendants utilized a compensation
23 system that did pay some measure of overtime wages upon a
24 designated hourly rate but failed to pay any overtime wages on
25 the additional and substantial portion of the earnings of the
26 plaintiff and those similarly situated that were paid by the
27 defendants solely on a piece rate basis.

28 20. Alternatively, if defendants did not engage in a

1 "piecework no overtime" pay scheme, and paid the plaintiff and
2 those similarly situated to the plaintiff a facially proper
3 overtime wage demonstrated on their payroll records as time and
4 one-half their regular hourly rate including all piecework
5 earnings, the defendants failed to pay such persons for all
6 overtime hours that they worked, the defendants furthering such
7 scheme by requiring the plaintiff and those similarly situated to
8 the plaintiff to record or otherwise certify that they were not
9 working during periods of time that the defendants required and
10 commanded them to work and when the defendants had actual
11 knowledge they were so working.

12 21. Defendants, in furtherance of their scheme to deny
13 the plaintiff and those similarly situated proper overtime pay as
14 required by the FLSA would falsely list certain "overtime hours"
15 and "regular hours" and "overtime compensation" on the
16 plaintiff's and the putative class member's pay stubs, such
17 listings being inaccurate in terms of hours actually worked and
18 not reflecting any attempt to pay time and one-half the
19 employees' true "regular rate" as required by the FLSA such
20 purported "overtime" payments being based upon completely
21 fictitious and knowingly false "regular rates" and "hours worked"
22 that were concocted by the defendants.

23 22. Defendants' violations of the FLSA were willful in that
24 defendants were aware the method they were purporting to pay
25 overtime under was illegal and violated the FLSA; such violations
26 were also willful because defendants were aware their "piecework
27 no overtime" pay scheme and/or their scheme to not record the
28 true hours worked by their employees and pay proper overtime for

1 all such hours of work had been the subject of prior lawsuits by
2 private parties alleging such schemes violated the FLSA and prior
3 investigations and settlements supervised by the United States
4 Department of Labor based upon such compensation systems'
5 violation of the FLSA; defendants also evidenced their willful
6 violation of the FLSA by concocting a false payroll record as to
7 overtime pay and hours worked that had no relationship to the
8 overtime hours actually worked or the actual payment of overtime,
9 such false record being manufactured by the defendants in an
10 attempt to conceal their knowing and willful violations of the
11 FLSA.

12 AS AND FOR A FIRST CLAIM FOR RELIEF PURSUANT TO THE
13 FAIR LABOR STANDARDS ACT AGAINST ALL DEFENDANTS ON BEHALF OF
14 THE NAMED PLAINTIFF AND ALL OTHERS SIMILARLY SITUATED

15 23. The named plaintiff brings this First Claim for Relief
16 pursuant to 29 U.S.C. § 216(b) against all defendants on behalf
17 of himself and all other similarly situated persons, if any, who
18 consent in writing to join this action.

19 24. Pursuant to the applicable provisions of the FLSA, 29
20 U.S.C. § 206 and § 207, the named plaintiff and those similarly
21 situated were entitled to a minimum wage and an overtime hourly
22 wage of time and one-half their regular hourly wage for all hours
23 worked in excess of forty hours per week, the named plaintiff and
24 those similarly situated worked more than 40 hours per week for
25 the defendants, and the defendants willfully failed to make said
26 overtime and/or minimum wage payments.

27 25. The named plaintiff on behalf of himself and all other
28 similarly situated persons who consent in writing to join this
action, seeks, on this First Claim for Relief, a judgment against

1 all defendants for unpaid overtime wages and/or unpaid minimum
2 wages, and additional liquidated damages of 100% of any unpaid
3 minimum wages and/or overtime wages, such sums to be determined
4 based upon an accounting of the hours worked by, and wages
5 actually paid to the named plaintiff and any such other persons
6 who consent to join this action, and the plaintiff also seeks an
7 award of attorney's fees, interest and costs as provided for by
8 the FLSA.

9
10 Wherefore, the plaintiff demands a judgment on all claims for
11 relief as alleged aforesaid.

12 Plaintiff demands a trial by jury on all issues so triable.

13
14 Dated: Clark County, Nevada
15 December 1, 2011

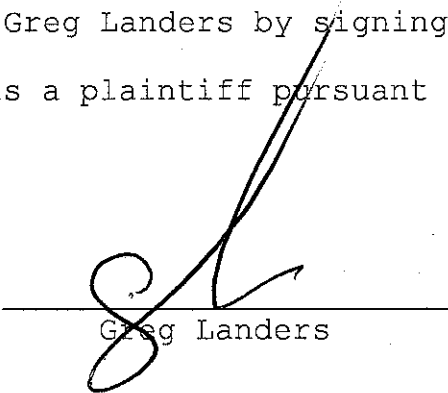
16 Yours, etc.,

17 */s/ Leon Greenberg*

18 _____
19 Leon Greenberg, Esq.
20 LEON GREENBERG PROFESSIONAL CORPORATION
21 Attorney for the Plaintiff
22 2965 South Jones Boulevard - Suite E4
23 Las Vegas, Nevada 89146
24 (703) 383-6085
25 Nevada Bar Number: 8094
26
27
28

CONSENT TO JOINDER

Greg Landers by signing below,
hereby consents to join this case as a plaintiff pursuant to 29
U.S.C. 216(b).



Greg Landers